UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/1990/SR.11
25 January 1990

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 January 1990, at 3 p.m.

Chairman: Mr. BADAWI EL SHEIKH

later: Mr. SPARSIS

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(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Jamaica (continued)

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GE.90-15268/5040A

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS (agenda item 6)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Jamaica (E/1984/7/Add.30, E/1986/3/Add.12, E/1988/5/Add.3) (continued)

1. Mr. MUTHARAHEJURU asked for a clarification of the concept of "family", as applied in the Jamaican report on articles 10 to 12 of the Covenant (E/1986/3/Add.12). Did the family always result from a formal marriage, or were there examples of couples living together out of wedlock in Jamaica? If so, what was the ratio of such families to orthodox families? Were there examples of polygamous marriages? What was the status of each spouse under the marriage contract?

2. Paragraph 2 of that report listed five circumstances in which freedom to solemnize a marriage was absent. In that paragraph, what was meant by the term "consanguineous"? Did it denote a degree of blood relationship? If so, at what degree did marriage cease to be prohibited? If impediments to the marriage were discovered after it had been solemnized, was there provision for divorce or annulment? Information would be welcome on divorce, separation, and their causes.

3. He noted from paragraph 9 of the report that provision was made for the protection of children, and that discriminatory practices based on illegitimacy had been abolished. However, he would have welcomed more information on the legal status of other categories of children, such as adopted children.

4. Mrs. JIMENEZ BUTRAGUEÑO, referring to paragraph 3 of the report on articles 10 to 12, asked whether any civil marriage law existed which was applicable to all cultures, creeds and denominations in the event of a mixed marriage. She also requested information on the legal situation of the woman within marriage. Did the woman have the same rights as her husband with respect to their children? Did she require her husband's permission to administer her own assets? With regard to the rights of legitimate and illegitimate children, were there any instances of discrimination against the latter?

5. She noted from paragraph 67 of the report on articles 6 to 9 of the Covenant (E/1984/7/Add.30) that many unemployed persons did not qualify for aid. Did the Government have any medium- or long-term plan for protection against unemployment? Was there any special programme to assist the large numbers of unemployed women?

6. With regard to the right to strike and collective bargaining, she questioned the distinction drawn in paragraph 107 between the "right to strike" and "freedom to strike". If there was no provision for the right to strike, then that right could not be exercised. Mere freedom to strike was not sufficient. If a group of workers felt that they had a legitimate grievance, did any collective bargaining mechanisms exist that enabled them to strike?

7. She noted that many workers did not enjoy adequate social security coverage. How was the Government intending to remedy that situation? The somewhat surprising reference, in paragraph 119 of the document E/1984/7/Add.30, to a widow's benefit, a benefit which in many other countries had been gained only after a long and hard struggle, seemed inconsistent with the low level of social security coverage in other areas.

8. Noting the high life expectancy in Jamaica, she asked for a breakdown of the figures by sex. She also wished to know what percentage of the population was over 65 years old, and what proportion of such persons did not enjoy pension rights.

9. Turning to the report on articles 13 to 15 (E/1988/5/Add.3), she asked for an indication of the assistance provided to persons who could not afford to attend primary and secondary school or university. She also asked for statistics on the percentage of female teachers and pupils at the primary, secondary and university levels. Was there any special programme designed to assist women in their education, thereby enhancing their employment prospects?

10. Ms. TAYA noted that Jamaica's economy was heavily dependent on a few commodities and was thus easily disrupted by fluctuations in commodity prices. Was there any plan to modify the country's economic structure so as to render it less vulnerable to changes in the international economic situation?

11. Mr. SIMMA reverted to the question of the distribution of relief money for shelter and reconstruction in the wake of Hurricane Gilbert. The Jamaican delegation had spoken of the sources of that money, but had failed to provide information on the mode of distribution, or to identify the criteria applied in selecting the target population. The publication Jamaica Money Index had alleged that certain persons with insecure tenure, such as squatters, had not been deemed eligible for relief. Would the Jamaican delegation provide details of the destination of the funds?

12. Mr. KONATE asked what nuance the Jamaican delegation intended to convey in distinguishing between the "right to strike" and "freedom to strike". What measures were being taken by the Government to integrate the right to strike in Jamaican legislation, in view of the fact that that right was guaranteed under article 8 of the Covenant, which was an integral part of Jamaican legislation?

13. Noting the widespread tendency in Jamaican popular music to glorify the consumption of drugs, he expressed surprise at the absence of any reference to the issue in the Jamaican reports. In view of the strong impact such music had on the population, what measures was the Government taking to combat drug consumption? Was there a trend towards toleration, or even legalization, of drug consumption?

14. A second dominant theme in Jamaican popular music was the search for the nation's cultural roots, specifically in Ethiopia. Had the Government taken measures, perhaps in the form of agreements or research, to encourage that search for national roots?

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15. He concluded by pointing out that there was a tendency for developing countries to blame their ills on structural adjustment measures imposed unilaterally by the International Monetary Fund. The truth of the matter was somewhat different. IMF loans were conditional on measures that Governments had already committed themselves to taking, and which, furthermore, served as collateral to guarantee loans made subsequently by other institutions.

16. Mr. Sparsis took the Chair.

17. Mr. FOFANA said that the debt crisis had been invoked in explaining the economic difficulties limiting the enjoyment of rights in Jamaica. Did other factors, such as environmental issues, contribute to those economic difficulties? If so, how did the Jamaican Government intend to respond to them?

18. With regard to the report on articles 6 to 9, he asked for information on the extent of union membership in Jamaica.

19. Turning to the report on articles 10 to 12 of the Covenant, he asked for more information on the special measures taken to provide care and education for physically, mentally and socially handicapped children. Noting the reference to juvenile delinquency, he asked whether any statistics were available on the causes of the problem, and what measures were being taken to combat it.

20. Mr. ALSTON thanked the Jamaican delegation for its comprehensive replies to the questions raised and for the thoroughness of the reports, which tended, however, to be rather legalistic in approach, devoting perhaps more attention than was justified to legislation rather than to the actual state of affairs in the country. At the same time, the pre-sessional Working Group's list of issues was particularly incisive, and the delegation's replies both detailed and adequate.

21. The delegation had told the Committee that the impact of the austerity programme on the poorer and more vulnerable sections of the population had been quite serious. A UNICEF study on that topic indicated that there had been a decline in the quantity and quality of public services, including health, education, housing and water supplies, and that the cost of those services had risen. The study pointed out that the Government's Food Aid Programme in particular had not been very successful, beset as it was by administrative and financial problems, in offsetting falling incomes and rising food prices. It was reported that there had been a pronounced growth in malnutrition among children; he would be interested to know whether that assessment accorded with the Government's own view of the situation and, if so, whether specific measures had been taken in recent years to combat child malnutrition. He also wished to know whether there had been any major policy innovations in that area since the new Government had taken office.

22. The UNICEF report had concluded that major changes in the administration of social security and other welfare schemes were urgently required: did the Government agree with that finding?

23. In general terms, he would welcome further information on the Government's arrangements for monitoring the social welfare situation, and on the role of the Planning Institute of Jamaica in that regard. Policy recommendations and initiatives could only be based on reliable and comprehensive data on social conditions.

24. At the previous meeting the Jamaican delegation had indicated that approximately 75 per cent of funds allocated to the National Housing Trust were directed towards low income earners, yet reports prepared for the Agency for International Development seemed to indicate that the percentage of low-income households benefiting from such funds was in fact quite small. The Jamaican delegation might care to comment on that apparent discrepancy. What was the impact of the National Housing Trust on the housing problem in Jamaica?

25. On the question of AIDS, he noted from table II.8 in document E/1986/3/Add.12 that only 14 cases of AIDS had been reported between 1982 and 1986. That figure seemed very low, and he wondered whether there had been a significant increase in recent years and whether there had been instances in which individuals suffering from the disease had been discriminated against in such areas as housing. Had the Government adopted any specific legislation to prohibit such discrimination?

26. In conclusion, he recalled that a member of the Committee had stated on several occasions that certain traditional forms of common-law action could be used to seek redress where economic and social rights were not being enjoyed. Had there been such cases in Jamaica?

27. Mr. NENEMAN, referring to the right to work, noted from paragraph 22 of document E/1984/7/Add.30 that "Though not reflected in the Constitution, in practice the position had been that all citizens had the right to work". He wondered whether that right was embodied in any other legislation in Jamaica and, if so, in what form it was expressed. It would also be of interest to know what the Government was doing to reduce unemployment, for which the figures were rather high, particularly in the case of women.

28. He would also welcome an explanation of why such a relatively low proportion of GNP was allocated to social security. Did that indicate a lack of funds available, or did it reflect a more traditionalist approach in which the family and the individual were expected to fend for themselves?

29. On education, he said that he was still not clear as to the percentage of children attending school. He asked whether primary education was compulsory and free and, if not, what steps were being taken to change the situation in the light of articles 13 and 14 of the Covenant.

30. Lastly, he inquired what efforts were being made to ensure that culture was accessible to the population at large and whether, for example, theatre, music and museums were publicly subsidized. It would also be interesting to learn whether the resources of the media were being used to disseminate the heritage of local culture, or whether they relied primarily on imported material.

31. The CHAIRMAN said he understood that the Jamaican delegation would reply at the Committee's 12th meeting to the questions raised.

32. Ms. Nembhard and Mr. Smith (Jamaica) withdrew.

Mexico and the Philippines (E/1986/3/Add.13, E/1988/Add.2) (continued)

33. The CHAIRMAN invited the Committee to consider concluding observations on the reports of Mexico (E/1986/3/Add.13) and the Philippines (E/1988/5/Add.2).

34. Mr. ALVAREZ VITA said that the representative of Mexico, Ms. González Martínez, had kindly provided him with the Spanish text of her introductory remarks, which represented a valuable complement to the report in document E/1986/3/Add.13. In addition, the representative of Mexico had given detailed and informative replies to the 42 questions raised in the course of the discussion, including those of the representative of ILO concerning the status of indigenous populations.

35. For the second round of questions, the representative of Mexico had also furnished the text of her replies, from which it was clear that most of the issues had been addressed. In the case of the small number of questions not dealt with, replies would be submitted to the Committee as soon as possible. He wished to express his gratitude to the Mexican delegation for its co-operation in that regard.

36. After a discussion in which Mr. MARCHAN ROMERO, Mr. SIMMA and Mr. ALVAREZ VITA took part, the CHAIRMAN explained that concluding observations were not being adopted at the current stage. In presenting an evaluation of a country's report and answers to the Committee's questions, a discussion leader might express the view that there had been a consensus on how the Committee had received the report, but it was for the Rapporteur, based on the discussion leader's observations and comments by other members of the Committee, to make the final assessment when he presented the Committee's report.

37. Mr. ALSTON endorsed the Chairman's remarks. In his opinion there should be a section of the Committee report entitled "Concluding observations", which might read along the following lines: "The discussion leader expressed the view that, etc. ... Another member felt that, etc. ... Other members ...". That would reflect the prominence of the role of the discussion leader, who took the greatest responsibility for following the consideration of the reports closely.

38. Mrs. JIMENEZ BUTRAGUEÑO said that it might facilitate the Committee's work if discussion leaders provided their evaluations in writing for the members' comments.

39. Mr. KONATE said that the Committee should not complicate matters but should trust its discussion leaders, perhaps adding a few comments for the leader to take into account. Concerning the report of Mexico, the concluding observations should say that the Committee noted the Mexican Government's promises to provide it with further information before the following session, in particular regarding indigenous programmes.

40. Mr. ALSTON remarked that much of the information provided by the representatives of Mexico had remained at the level of generalities and had not enabled the Committee to ascertain the precise situation of the most vulnerable and disadvantaged groups. Further written replies should have greater precision. However, he agreed that the report of Mexico was generally sound and had presented the larger picture very effectively.

41. Ms. TAYA, referring to the report of the Philippines, stated that the representatives of the Philippines had shown a frank and sincere attitude in the presentation of the report and in their replies to the Committee's questions. However, despite the additional information provided, the replies to the questions had not been sufficiently clear. The additional written information should focus on the specific situation in the Philippines, i.e. budgetary allocations and special legislation and programmes, including economic measures, aimed at street children, abandoned children, ethnic minorities and illiterate people. The report and the statistics provided gave too general a description of the country's situation and did not single out the administrative measures actually taken for those vulnerable groups.

42. Mr. SIMMA agreed with Ms. Taya's emphasis on the need for the additional information to focus on the most vulnerable groups in the Philippines.

The meeting rose at 5 p.m.

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Distr.
GENERAL

E/C.12/1990/SR.12
14 March 1990

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 January 1990, at 10 a.m.

Chairman: Mr. BADAWI EL SHEIKH

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Submission of reports by States parties in accordance with articles 16 and 17 of the Covenant (Economic and Social Council resolution 1988 (LX), Council decision 1985/132 and Council resolution 1988/4) (continued)

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GE.90-15275/1643B

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Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Initial reports concerning articles 13 to 15 and 10 to 12 of the Covenant (continued)

- Jamaica (continued)

Second periodic reports concerning articles 10 to 12 of the Coventant

- Colombia

The meeting was called to order at 10.35 a.m.

SUBMISSION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1988 (LX), COUNCIL DECISION 1985/132 AND COUNCIL RESOLUTION 1988/4) (agenda item 5) (continued)

1. The CHAIRMAN announced that Luxembourg had requested that its initial report concerning articles 1 to 15 (E/1990/5/Add.1) should be considered at the next session of the Committee.

2. Mr. ALSTON said he had reason to believe that Luxembourg had taken that decision because of the number of questions drawn up by the pre-sessional Working Group and reiterated his opinion that it was very awkward that the latter could not meet sufficiently far in advance to give States time to prepare their answers satisfactorily.

3. The CHAIRMAN suggested that it would also be helpful if the Working Group listed only the most important questions, bearing in mind that delegations had only 45 minutes in which to reply.

4. Mr. SIMMA, speaking as Chairman/Rapporteur of the pre-sessional Working Group, said that the Luxembourg report was unsatisfactory as it was only 12 pages long and article 15 was not even touched on. That was why the Working Group had asked for so many clarifications.

5. Mr. ALSTON recalled that the Committee had decided at a previous meeting to review, on an experimental basis, the distribution of floor time, in order to take better account of the large number of questions that States were asked and to enable them to meet the Committee's new requirements.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial reports concerning articles 13 to 15 and 10 to 12 of the Covenant (continued)

Jamaica (E/1986/3/Add.12, E/1988/5/Add.3, E/1984/7/Add.30) (continued)

6. At the invitation of the Chairman, Mrs. Nembhard and Mr. Smith (Jamaica) took places at the Committee table.

7. Mrs. NEMBHARD (Jamaica), in answer to the questions raised by Mr. Sparsis, said that the aim of the Human Resource Development Programme (HRDP) was to improve the efficiency and management of social services and particularly the health services, by targeting the most disadvantaged social groups and through better utilization of human resources. To that end, efforts were being made to clarify the objectives of employment and nutrition programmes, channel investment into institutions which dealt primarily with disadvantaged groups, modernize or renovate infant and primary schools, and raise the standard of secondary education. Every effort was also being made to rationalize the way in which the social services were being run and to regulate better the expenditure in that area. Lastly, an information system had been set up in order to keep a check on the implementation of food aid

programmes. It was estimated that HRDP, which would cover the period 1989/90-1993/94, would cost $US 381 million, which was to come from the Jamaican Government, the World Bank and various donor organizations. Since it was a public programme, it had not been formulated through tripartite talks.

8. In answer to further questions from Mr. Sparsis, she said that job evaluation had been carried out in Jamaica and fair remuneration was guaranteed under the 1975 Act. In 1988 the unemployment rate amongst the population of working age had been 18.9 per cent, if those not seeking employment were included, and 7.4 per cent if they were excluded.

9. Concerning measures to encourage full employment, a five-year development plan covering the whole of the economy was being prepared, and one of its chief objectives was job creation, since unemployment was among Jamaica's most serious problems. The plan would be submitted to Parliament in April 1990.

10. Regarding aid for people who had lost their jobs for reasons beyond their control, she said that unemployment benefit was provided by law, but the amount paid depended on how many years the person had worked. The National Insurance Scheme also provided unemployment benefits.

11. The remaining questions raised by Mr. Sparsis (working conditions for children and adolescents, the percentage of workers receiving the minimum wage, work inspections) would be answered at a later date.

12. In reply to questions from Mrs. Jiménez Butragueño on Government plans for social security and help for women, she said that those were two of the priorities of the five-year plan to which she had just referred. Regarding the coverage of the social security system, she pointed out that self-employed workers did not pay any contributions, but added that the five-year plan provided for expansion and improvement of the affiliation system. In 1987, 7.3 per cent of the Jamaican population had been over 65 years old, at which age women could receive a pension (the pensionable age for men was 67). She would supply at a later date the information requested by Mrs. Jiménez Butragueño on average life expectancy for both sexes and on the percentage of women in education as a whole.

13. In answer to Ms. Taya's question on measures taken to reduce the Jamaican economy's dependence on the international economic situation, she said that the Government was endeavouring to diversify national production and increase exports of manufactures, but the results of that policy had so far been uneven.

14. Her delegation would reply at a later date to Mr. Simma's question on the criteria for the distribution of international aid in the wake of Hurricane Gilbert.

15. In reply to Mr. Fofana's question on the protection of the environment, she said that the Government considered it a priority issue, as had been shown by the appointment of an expert on the environment to the cabinet of the Minister of Development, Planning and Production. Details of Jamaica's policies in that area could be provided at a later date, if the Committee so wished. Responding to Mr. Fofana's request for further details of measures to help handicapped children, she said that children, adolescents and women were a priority of the five-year plan and that, on that basis, new proposals to

help handicapped children had been made. The Jamaican delegation would elaborate on that point at a later date, and also on Mr. Fofana's final question concerning the consequences of juvenile delinquency.

16. In reply to Mr. Alston's question regarding the impact of austerity measures on the Food Aid Programme, she said that statistics showed that poverty was greater in rural areas than in urban areas and that there was a significant degree of malnutrition in the countryside. However, she drew the Committee's attention to the fact that the extended family structure was prevalent in rural areas and often provided food and shelter to those in need. The amount of food aid was therefore not the only indicator of the nutritional state of the population. In addition, the Government was endeavouring to rationalize the Food Aid Programme, particularly in the area of school meals.

17. There had been signficant changes in recent years in the administration of State assistance with the creation of the Human Resource Development Programme, the work and objectives of which she had already explained.

18. The Planning Institute of Jamaica was responsible for studying developments in the area of economic and social rights. The secretariat of the Institute comprised a project director and four professional staff members who co-ordinated and supervised all activities under the Human Resource Development Programme.

19. Concerning the role of the National Housing Trust which, according to the United States Agency for International Development quoted by Mr. Alston, provided only minimal assistance to people of slender means who wished to find a home, she said that 77 per cent of the 102.1 million Jamaican dollars distributed by the institute in 1988 in the form of mortgage loans had gone to persons with incomes below the average of 18,000 dollars.

20. As had already been explained, the fact that only 0.3 per cent of GNP was allocated to social programmes was due to the austerity policy which the Jamaican Government had been forced to apply.

21. Information on school attendance had already been provided but, if the Committee wished, the Jamaican delegation could furnish fuller details at a later date.

22. In answer to a series of questions on the family and marriage, Mr. SMITH (Jamaica) pointed out that the average Jamaican family comprised five members and added that common-law unions were widespread. However, he was not in a position to give the exact number of such unions. Common-law couples were not entitled to the same rights as those who were legally married but, because of the Status of Children Act, children born of common-law unions, and indeed illegitimate chilren, had the same rights as those conceived within legal marriages. As for adopted children, the law gave them the same rights as non-adopted chilren.

23. Polygamy and consanguineous marriages were prohibited. Marriage was banned between ascendants and descendants in direct line and persons related by marriage in the same line and, collaterally, between brother and sister and between persons related by marriage to the same degree. It was also forbidden for an uncle to marry his niece and an aunt to marry her nephew.

24. Marriages were annulled by the Supreme Court of Jamaica. There was only one ground for divorce: the marriage must have irretrievably broken down and the couple must have lived apart for at least a year. If the Committee so wished, the Jamaican delegation would provide information on divorce rates at a later date.

25. The Civil Marriage Act applied to everyone and the wedding had to be celebrated before a marriage officer.

26. Turning to a group of questions on labour relations and the right to collective bargaining, he said that Jamaica had not ratified ILO Labour Relations (Public Service) Convention No. 151, but pointed out that article 23 of the Constitution expressly gave workers the right to be represented by unions. He admitted that the right was accompanied by some restrictions in the case of public servants, particularly members of the police and defence forces, but, in practice, they were free to negotiate with the Government on their working conditions or wages through various organizations such as the Jamaican Civil Service Association.

27. There was no special mechanism to involve workers in decision-making but, in a pluralist society such as Jamaica, where trade unions were very active, workers had no difficulty in being heard and had the means to win acceptance for their views. In addition, within the Ministry of Development, Planning and Production there was a National Planning Commission which comprised representatives of employers, workers and the administration and studied the priority issues affecting development.

28. Concerning the method for calculating the minimum wage, he explained that a national consultative committee comprising representatives of the administration, the private sector and trade unions was responsible for studying the matter and giving its opinion to the competent minister. He regretted that he was unable to inform the Committee of the percentage of the working population receiving the minimum wage.

29. Turning to various questions on the exercise of the right to strike, he said that the Jamaican courts had ruled that if a wage-earner, by exercising his right to strike, refused to render the services which he had committed himself to providing under the terms of his contract of employment, his employer could see that as a repudiation of the contract. That interpretation of the right to strike could be better understood if it was placed in the national context. Jamaica was a country where collective bargaining was very widespread, where there were multiple collective agreements and where wage-earners were defended by very active trade unions.

30. While it was true that the right to work was not included in the Constitution, the right was in fact recognized for everyone. The Jamaican Government's policy was to enable everyone to earn their living by practising the occupation of their choice without any discrimination.

31. Turning to the question which had been raised on the subject of "reggae" and the link between that type of music and drug consumption, he stressed that reggae was an important part of Jamaican culture, that it reflected reality in the country and that its influence had always been highly positive. He admitted that in a society where freedom of expression was guaranteed to everyone, some performers might, on an individual basis, advocate the use of

drugs, but both the authorities and the population as a whole were strongly opposed to their use. At the international level, Jamaica was actively involved in the anti-drug campaign and was one of the sponsors of the resolution which the General Assembly had adopted on that subject at its previous session. The scourge was being actively fought within the country itself and an extensive information campaign had been launched by the National Council on Drug Abuse.

32. Concerning the "roots" of the Jamaican population and its interest in Africa, he said that it was true that the national culture still contained, to varying degrees, some African elements, which was not surprising given the country's history. The authorities were not taking any particular steps to develop closer relations with the African continent, but cultural exchanges took place with various African countries and the Jamaican Government actively supported the struggle against apartheid in Africa.

33. Turning to the austerity programmes implemented with the help of the IMF, he said that, in a country with very few resources, the application of the policy recommended by the IMF - a policy based on demand management and cuts in public expenditure - inevitably harmed social services. For that reason Jamaican authorities had insisted on modifying the programmes somewhat by placing greater stress on supply than on demand, making the planned measures less Draconian and allowing more time to implement the required adjustments. He added that Jamaica's economic problems were largely due to outside factors, particularly the decline in the bauxite market.

34. Lastly, in reply to a question on AIDS, he said that 140 cases of AIDS had been registered in the country by the end of November 1989. The authorities did not have any plans to pass any special legislation to protect AIDS victims, since it appeared that none had suffered any discrimination so far. However, they were endeavouring to keep the population informed through various programmes and were calling on people to treat AIDS sufferers with understanding.

35. Mr. SPARSIS thanked the Jamaican delegation for its answers and asked for further clarification on two of the points which he had raised. On the subject of equal pay for equal work for both sexes, he asked what criteria were used by the Jamaican Government to implement the relevant provisions. He also inquired how the minimum subsistence level was guaranteed to those unemployed people who were no longer entitled to benefits or people who had no income because they had never been employed.

36. Mr. KONATE said that the replies given by the Jamaican delegation showed that its Government was doing its utmost to respect the rights listed in the Covenant. However, he was not entirely satisfied by that delegation's interpretation of the right to strike. The right to strike was one of the fundamental rights of workers, and he therefore thought that the Jamaican Government should be reminded of its obligation under article 8 (d) of the Covenant. The Government might consider amending its legislation to bring it into line with that provision. He wondered whether there was any legal precedent in that area and, if so, he asked that details should be provided.

37. He added that collective bargaining did not always provide adequate guarantees for workers and sometimes led to the situation where workers accepted conditions prejudicial to their rights. Moreover, he wondered what happened when the parties present did not drop their demands. In such cases, the legislator would have to settle the dispute. In his opinion, exercising the right to strike did not constitute a breach of the contract of employment, since it was a fundamental right which was part of the contract itself. He wished that opinion to be reflected in the Committee's report and hoped that the Committee would request the Jamacian Government to modify its interpretation of the right to strike in order to bring it more into line with article 8 (d) of the Covenant.

38. He congratulated the Jamaican Government on the steps taken to combat the harm caused by drugs, particularly the creation of the National Council on Drug Abuse.

39. Mr. ALVAREZ VITA, returning to the question raised on the previous day by Mr. Konate as to whether reggae music helped to glorify drugs, said that he found it difficult to accept the Jamaican delegation's reply that the music was a form of cultural expression which was justified by the need to respect freedom of expression. He did not believe that freedom of expression could be invoked in order to excuse the advocacy of drugs. He drew attention to the fact that, under article 19, paragraph 3 (b) of the International Covenant on Civil and Political Rights, freedom of expression could be subject to certain restrictions, particularly in order to protect public health or morals. The Committee might therefore inform the Jamaican Government of its concern and remind it of that particular provision in the International Covenant on Civil and Political Rights, of which Jamaica was a signatory.

40. Mrs. JIMENEZ BUTRAGUENO said that, on the whole, she was satisifed with the Jamaican delegation's answers to her questions on family law, but there was still one point which had not been clarified, namely whether parental authority was exercised by both parents. That was not only an economic matter: it was also a question of knowing whether fathers and mothers had the same rights over their children.

41. She endorsed Mr. Konate's comments on the right to strike.

42. Regarding social security, she said that the Jamaican delegation had not answered her question concerning the risks run by unemployed people. She asked whether the Jamaican Government had any long-term plans to establish an unemployment insurance scheme. She also wished to know why the Jamaican social security system, which was quite comprehensive, did not provide for widows' pensions.

43. Mr. WIMER ZAMBRANO asked for clarification on the way in which legal and common-law marriages were treated differently in law.

44. Mr. NENEMAN, recalling that article 13, paragraph 2 (a) of the Covenant stated that primary education should be compulsory and available free to all, asked whether that provision was fully applied in Jamaica. If not, the Government should, in accordance with article 14 of the Covenant, work out and adopt as quickly as possible a detailed plan of action for the full implementation of the principle of compulsory primary education free of charge for all. He would like to have a precise answer on that point.

45. Mr. FOFANA pointed out that his question concerning the percentage of workers affiliated to unions had not received an answer.

46. Mr. SMITH (Jamaica), in answer to Mr. Neneman's question on compulsory and free primary education, pointed out that the 1965 Education Act contained provisions to that effect, and explained that 98 per cent of children between 6 and 11 years of age were enrolled in primary school. The average school attendance rate was between 67 and 78 per cent and the Government had set up a pilot support project in eight of the island's parishes which was designed to improve that rate and which might be extended throughout the remainder of the country.

47. He would reply at a later stage to Mr. Wimer Zambrano's question on the difference between legal and common-law marriages. However, he explained that the distinction primarily concerned property and the right to particular benefits. For example, the provisions of the Widow and Orphan Act did not apply to the second type of union.

48. Regarding Mr. Alvarez Vita's comments on reggae, he stressed that the Jamaican Government did not consider that such music advocated the drug culture. Reggae was a vibrant form of music which expressed many things. It was in that context that he had spoken of freedom of expression, because he did not believe that the music tended to glorify drugs. Nor did his Government see it in that light and it was firmly opposed to the drug culture.

49. He reserved the right to answer the remaining questions at a later date.

50. The CHAIRMAN thanked the members of the Jamaican delegation and said that the Committee's conclusions and observations on Jamaica's report would be given in its report and communicated to the Jamaican Government.

Second periodic reports concerning articles 10 to 12 of the Covenant

Colombia (E/1986/4/Add.25)

51. At the invitation of the Chairman, Mr. Rivas Posada and Mrs. Galvis (Colombia) took places at the Committee table.

52. Mr. RIVAS POSADA (Colombia) said that Colombia's second periodic report gave a general insight into measures taken to guarantee Colombians the right to protection of the family, the right to an adequate standard of living and the right to health, all of which the Covenant held to be fundamental for the respect of human dignity.

53. Despite the economic and social difficulties with which it had been confronted for several years - a decline in the standard of living, subversive violence and, above all, the drug traffic - Colombia was continuing to strive towards economic and social development. Prudent economic policy had enabled it to tackle the problem of the external debt more successfully than other Latin American countries and, thanks to a positive growth rate, it had been able to progress with its social policy.

54. In 1986 the present Government had drawn up a General Plan for the Social Economy comprising three sectoral plans: the National Rehabilitation Plan to develop regions hardest hit by violence, the Plan for the Elimination of Absolute Poverty to provide minimum services to the poorest members of society, and the Comprehensive Rural Development Plan to eradicate rural poverty and improve the means of production and marketing conditions for the benefit of some 4 million smallholders. To implement those plans, the Government had set up three bodies: the Council for Social Development, the Council for Reconciliation, Normalization and Rehabilitation, and the Council for the Defence, Protection and Promotion of Human Rights.

55. On the subject of the protection of the family, he said that the Colombian Family Welfare Institute was responsible for protecting minors and administered a network of day care centres. It ran or subsidized centres providing care for deserted minors, adoption homes and the substitute home system. It offered legal assistance to low-income families, particularly deserted mothers, supervised the payment of maintenance allowances to youths below the age of 18 from broken families or born out of wedlock, sought recognition for children born out of wedlock, and protected deserted children or those in physical or moral danger or physically or mentally handicapped. In addition, the Institute proposed measures to the Ministry of Labour and the Congress aimed at protecting children and adolescents against economic exploitation, to which minors were often exposed through hardship or poverty. In order to monitor the situation and prevent abuse, Colombia had Act No. 20 of 1982 and the Minors' Code, which had been promulgated in November 1989.

56. The aims of the programmes implemented by the Colombian Government for the benefit of the most disadvantaged groups, and particularly the Plan for the Elimination of Absolute Poverty, were in line with the objectives of article 11 of the Covenant. The programmes were aimed at creating jobs, protecting children and reinforcing the institution of the family, developing communities through the involvement of urban populations, protecting the elderly and preventing drug addiction and alcoholism amongst adolescents.

57. As far as the housing problem was concerned, the Government had drawn up a programme of low-cost housing construction and subsidies for deprived urban areas, which consisted in selling families cheap building land that had already been connected to the water and electricity supplies, sewers and roads, so that they could build their own homes with their own materials. The programme was a means of preventing the growth of slums which had been caused by the large-scale urbanization that had transformed Latin American cities and given rise to all kinds of social, economic and cultural problems.

58. Concerning living conditions in rural areas, he said that roughly 350,000 producers were receiving economic aid and low-interest loans as part of the Comprehensive Rural Development Plan. The beneficiaries of that aid also received technical assistance and training in management techniques. The Agricultural Marketing Institute regulated the market for foodstuffs by supporting prices and managing warehouse centres. The Institute was also encouraging the system of popular markets from which the most impoverished people benefited.

59. The 1961 Agrarian Reform Act had not yielded all the results expected, and the total area of land distributed to peasants had been far less than foreseen. Act No. 30 of 1988 was intended to rectify that situation by creating more flexible legislation which authorized the expropriation of insufficiently utilized land so that it could be redistributed to those in need of it. The new law proposed to transform smallholders into fully-fledged owners through the system of agricultural usufruct which enabled a smallholder to obtain full ownership after 10 years.

60. Regarding the technical development of rural areas, the Colombian Farming Institute had created, as part of the Rehabilitation Plan, Regional Centres for Extension, Training and Dissemination which covered more than 400 municipalities. Furthermore, there were 23 experimental centres and stations which carried out research into ways of improving agricultural efficiency.

61. On the subject of public health, the Programme of Basic Health for All, which was part of the Plan for the Elmination of Absolute Poverty, placed emphasis on the prevention of the most common illnesses. In line with the aims of the National Plan to Ensure the Survival and Development of Children, the programme sought to reduce the morbidity and mortality rates among children under five years of age affected by diarrhoea, respiratory infections, perinatal illnesses, diseases which could be prevented by immunization, malnutrition and psycho-emotional deprivation. One of the most ambitious measures undertaken as part of the programme was the declaration of National Vaccination Days. It had been estimated in 1989 that more than 80 per cent of children under the age of one had been vaccinated against tuberculosis and poliomyelitis, and 60 per cent against diphtheria, whooping cough, tetanus and measles.

62. Turning to the Committee's first written question, he said that international instruments signed by Colombia (treaties, covenants or conventions) were submitted by the Government to the Congress of the Republic for ratification, after which they were automatically incorporated into domestic law through a bill introduced for that purpose. Furthermore, in line with jurisprudence and doctrine, international treaties took precedence over national legislation in the hierarchy of legal texts.

63. Concerning the second question (programmes implemented to promote the rights covered by the Covenant), he replied that for many years Colombia had been benefiting from the opportunities provided by international co-operation programmes and that it had concluded agreements with a number of developed and industrialized countries with a view to reinforcing the national economic and social development plans in various sectors of national life. On the subject of aid from international agencies, Colombia had benefited in the 1960s and 1970s from a very ambitious UNESCO programme aimed at developing primary and secondary education. Furthermore, UNDP had provided substantial assistance for efforts to eradicate absolute poverty. As far as bilateral aid was concerned, several countries, mostly European ones, had helped with child protection projects.

64. In answer to the third question (international co-operation), he said that it was not easy to establish the exact percentage contribution of international aid to the country's development and to the enjoyment of the rights recognized by the Covenant under articles 10, 11 and 12. Nevertheless, he could confirm that international financial aid represented roughly half the cost of those operations, the other half being supplied by Colombia itself.

65. Regarding the impact of the external debt on the application of the Covenant (fourth question), he said that the debt was a substantial burden for developing countries, particularly those in Latin America. However, Colombia was in a relatively fortunate position in that area, possibly because its economy had a high degree of self-sufficiency or because it followed a prudent economic policy. Nevertheless, the external debt still put considerable limits on investment in economic and social development projects. For example, in 1989, the debt had totalled $US 17 billion, while the gross domestic product had amounted to $US 35-40 billion. Currently, 35 to 40 per cent of export earnings were used to pay principal and interest on debts. That was an overwhelming burden for a country such as Colombia, whose economy was dependent as its only export on coffee, the price of which was continually falling on the international market.

66. Referring to the fifth question (the practical repercussions of the Covenant), he said that the impact of international instruments ratified by a country was not always immediately evident at all levels of society. However, their adoption had an orientational effect on States parties. Consequently, the accession to the two International Covenants on Human Rights had been an important stage for Colombia in raising the political consciousness of the country's main forces (parties, pressure groups, press, teachers, etc.). Despite social upheavals which had often threatened the enjoyment of human rights, legislation and Government initiatives were still inspired to a great extent by respect for the international obligations contracted under those Covenants.

67. In answer to the sixth question (repercussions of guerrilla activities and the drug traffic), he said that countries, like Colombia, which were almost permanently at risk from armed opposition movements using terror tactics and also from the danger which the drug traffic represented for national institutions, were particularly aware of a kind of paradox that existed in the mechanisms instituted by the international community to ensure that human rights were respected. The international community, as organized within the United Nations, afforded only a legal basis for monitoring the implementation of international instruments by signatory States. On the other hand, terrorist groups lay outside international law and hence were not subject to such supervision. Moreover, they were often funded by drug traffickers who used methods which, without exception, violated fundamental rights recognized by international law (extortion, kidnappings and unlawful imprisonment, threats, assassinations, etc.). Those groups responsible for the violence were a major hindrance to the State and prevented it from guaranteeing that respect for human rights. Colombia's domestic violence should therefore be the subject of a more detailed analysis on the part of the international community.

68. With specific reference to the drug problem (seventh question), he said that its repercussions were felt at every level of political life in Colombia. Given the scale on which drugs were grown and distributed and the amount of money at stake, at both national and international levels, it was inevitable that a developing society, characterized by its institutional weakness, would be affected in every area.

69. The drug problem also had a destabilizing effect on democratic institutions. Public servants, politicians, magistrates, journalists and legislators had succumbed to the illicit trade which employed terrorist tactics towards any force which opposed it. So much had been written on the subject by the World's press that it could be said that the impact of the drug trade in Colombia had reached huge proportions.

70. Regarding the eighth question (constitutional reform), he said that the reform bill proposed in 1987 by the Colombian Government had required ratification by the Congress during two consecutive legislative periods. It had been passed on first reading in 1987, but had been rejected on second reading in December 1989.

71. Turning to section II of the questionnaire (family and maternity), he said that there seemed to be a misunderstanding regarding the Concordat mentioned in paragraph 29 of his country's report. The practice of signing a Concordat with the Holy See had been initiated in the previous century and the Concordat currently in force, although revised in 1974, dated back to 1887. The aim of the current initiative was to bring the position of the Colombian Government in line with the pronouncements of the Holy See at the Vatican II Council. The Colombian Government particularly wished to reform the marriage system under the Concordat. Under the terms of the current agreement, divorces could be granted only to couples who had contracted a civil marriage and not to people married in the Catholic Church, which was the case for a very high percentage of the population. However, the reform proposed by the Colombian State, which would have given the legislator complete freedom to dissolve marriages, had been rejected.

72. On the subject of question II.2, he said that the concept of an indigenous population had both racial and cultural aspects. In Colombia as in most Latin American countries, the Spanish conquest and colonization had led the native populations gradually to seek refuge in the most remote areas of the country in order to preserve their cultural values and social traditions. There were therefore three criteria for classifying a population as indigenous: racial, in that there had been no intermingling between indigenous people and colonists or other Europeans who had settled in the country after its independence; cultural, since they were small tribal groups which had preserved their traditions, whose culture was very simple, whose economy was rudimentary and spoke in dialects; and, lastly, geographic given that most indigenous peoples had moved away from the large urban centres in order to protect themselves from ways of life which threatened their cultural identity.

73. Furthermore, such communities lived mostly in tropical forests where conditions made it very difficult to travel around the area in order to carry out a census, and consequently the figure given in the report was necessarily only a rough one.

74. As for the overall composition of the population, 70 to 75 per cent were indigenous or mestizo and 15 to 20 per cent were white. There was also a black population descended from the former slaves from Africa and the Caribbean, as well as mulattos.

The meeting rose at 1 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1990/SR.13
26 January 1990

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 January 1990, at 3 p.m.

Chairman: Mr. BADAWI EL SHEIKH

later: Mr. ALVAREZ VITA

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Colombia (continued)

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The meeting was called to order at 3.25 p.m.

CONSIDERATION OF REPORTS (agenda item 6)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Colombia (E/1986/4/Add.25) (continued)

1. Mr. RIVAS POSADA (Colombia), continuing his answers to the questions on section II of the list of issues relating to protection of the family, mothers and children (article 10 of the Covenant), completed his answer to question 2, on the situation of the indigenous population of Colombia, including the matter of whether indigenous organizations had been consulted in order to prepare the report. He said he did not know without further advice whether indigenous organizations had been so consulted but it was possible that they might have contributed information for the report through the Division for Indigenous Affairs in the Colombian Ministry of the Interior, which was the relevant Government department both to formulate legislation relating to the indigenous population and to monitor its implementation. There was a good deal of legislation aimed at protecting the rights of the indigenous communities. As in other Latin American countries, the main problem in Colombia was that of ensuring access to the land which had originally been held collectively. During the Spanish colonial period and since independence, modernization had threatened the traditional use of the land by such communities. Historically, since the Spanish conquest, the indigenous population had had two forms of access to land: the first was through collective ownership of the indigenous reserves which were worked according to tribal customs, and the second was to areas where the use of land was guaranteed but not its ownership. Recent legislative changes had brought about increased indigenous ownership. Five thousand plots of various sizes had been set aside for allocation to the indigenous population with full rights of ownership, in some cases subject to the condition that the plot was indivisible, since in rural districts agricultural land was often subdivided by inheritance into plots which were too small to be economically viable. There were special legal provisions to guarantee the possession of the land to such indigenous owners. In practice, however, major landowners could exercise great pressure in remote districts where the Government authorities had difficulty in monitoring abuses. There was also legislation aimed at preserving the cultural identity of the indigenous population. The traditional system of justice by cabildos was authorized to settle disputes and punish minor offences. Moreover, during the preceding 10 years, the teaching of indigenous languages had been encouraged by research conducted under the auspices of the National Anthropological Institute, which was part of the Ministry of Education, and by assistance to train indigenous teachers to use such languages in primary education. Otherwise there was great danger that they would fall into disuse because of the influence of radio and, increasingly, of television. To sum up, the State had to be vigilant in the defence of indigenous communities, but the long-term solution would depend on their own more active participation.

2. Turning to question 3, arising out of the statement in the report about post-maternity leave (E/1986/4/Add.25, para. 33), he said that fathers and adoptive fathers did not enjoy the right to such leave. With regard to question 4, about legal recognition of a de facto union between two persons with legal capacity to enter into matrimony, informal unions had recently been brought into line with legal unions in respect of social security benefits.

3. Answering questions 5 and 6 on child labour in Colombia, he observed that it was a very difficult problem in view of the rapid increase in population and the inequality in income distribution. There was great pressure, especially in rural society, to use children to supplement the family income and there was also a tendency for industrial firms, especially those engaged in hazardous work, to abuse child labour. Children were also much employed in the informal sector. It was estimated that, in 1986, between 2 and 3 million children under 10 years of age had been working in unacceptable conditions. Over the previous three years, ambitious legislation had been adopted with a view to ensuring that legal provisions were applied in practice. He referred in particular to Act No. 20 of 1982 (ibid., paras. 51-54) and to the Minors Code (ibid., para. 49), which had been adopted in November 1988 and which incorporated all the existing protective measures. The monitoring of compliance with child labour laws was the responsibility of the Colombian Ministry of Labour, acting through the labour inspectors and in conjunction with the juvenile judges. Much remained to be done: it was not merely a question of enacting legislation but of bringing about a basic change in custom and practice.

4. With regard to question 7 on the criteria for admission to the Government-subsidized child-care centres (ibid., para. 40), he said that absolute priority was given to children from very poor families whose mothers worked every day. The programme benefited 800,000 children under the age of 7, which was a fair proportion of the children in the age group concerned. The Colombian Family Welfare Institute was, however, making strenuous efforts to provide more such centres and also foster homes for abandoned children or those with difficult family circumstances. With regard to question 9, on the joint programme with UNICEF for street children, (ibid., para. 45), he said that street children were an endemic problem in Bogotá mainly caused by fathers abandoning their families. The UNICEF programme was continuing and the Government had launched an information campaign directed both at parents and at the children themselves, whom it was hoped to gather into rehabilitation centres.

5. In reply to question 8 on the percentage of pregnant women receiving assistance under the social security programme and on the percentage of employed women affiliated with that programme (ibid., paras. 37 and 38), he said that all enterprises with a capital of over 1 million pesos were under an obligation to enrol their employees in the social security programme, which covered the private sector. Workers in the public sector were covered by the National Social Welfare Fund. In practice, only about 30 per cent of the working population were enrolled in the national social security programme, but there were some other social insurance schemes which received State subsidies. The role of the informal sector was becoming increasingly important in Colombia as in many other Latin American societies, owing to the rapid increase in the urban population. It was difficult to put a figure on its size, but it might account for between 30 and 40 per cent of the labour force. The work of the Peruvian sociologist Orlando de Soto provided valuable data on the informal economy in Latin America.

6. Turning to the questions under section III of the list of issues on the right to food, clothing and housing (article 11 of the Covenant), he answered questions 1, 2, 3, 6, 7, 8, 9 and 10 dealing with the percentage of the population adequately housed, the relative housing situation in rural and urban areas, the housing situation of indigenous groups and the authorities responsible for housing programmes. He observed that the criteria for determining adequate housing differed between developed and developing countries. In Colombia, there were also geographical and climatic differences between regions and the phenomenon of cultural decentralization. It was therefore impossible to give precise figures, but about 60 per cent of the population could be deemed to have adequate housing in respect of water supply, electricity and sewage. Considerable progress had been made in rural areas over the preceding two decades in respect of electrification, with the assistance of a World Bank loan. Moreover, in the coffee-growing areas which lay at an altitude of between 2,000 and 2,500 metres, the Coffee-Growers' Union had been exceptionally active not only in providing housing but also in carrying out public works and various social welfare programmes. It might be said that in some respects housing conditions currently tended to be better in the countryside than in the major cities in view of the rural exodus and the increasing number of shanty towns. However, there were more facilities in the towns with the exception of three or four of the largest cities where conditions were appalling. The average number of persons occupying a dwelling (question 2) varied considerably from area to area according to the size of family, but five might be regarded as an average figure. The number was tending to decrease but it still remained high. Indigenous groups had very basic housing which conformed to traditional patterns, but they would reject imposed innovation. They mostly lived in remote tropical areas where housing requirements were less exacting. State action was practical only where groups were more accessibly located and more open to modernization. He did not think that any sizeable proportion of the population was actually homeless, even among migrants to the cities. The problem was, rather, to improve substandard housing. Housing programmes were divided between the Plan for the Elimination of Absolute Poverty, which concentrated on absolute poverty and urban slums, and the National Rehabilitation Plan, which concentrated on the rehabilitation of rural housing in areas affected by violence and social unrest. As in other Latin American countries, there had been a radical change in the relative size of the urban and rural populations in Colombia. In the 1950s, 70 per cent of the population had been country dwellers and only 30 per cent city dwellers. By the 1980s, the proportions had been reversed and that had had a profound influence on the housing problem.

7. With regard to the right to clothing (question 4), a provision in the Labour Code required employers to provide lower-paid workers with a uniform every three months and also with shoes.

8. In answer to the questions on the distribution of food resources and action to combat malnutrition (questions 5 and 8), he said that there was no overall national plan but the municipalities had their own food plans, particularly in respect of needy children. The Colombian Family Welfare Institute ran partially subsidized restaurants for children in deprived areas and also distributed free of charge bienestarina, a low-cost, high-protein mixture whose merits had been internationally recognized (E/1986/4/Add.25, para. 39). Malnutrition occurred very frequently in tropical countries, partly as a result of the poor quality of the soil and traditional, unhealthy diets and partly because of the pernicious effects of poverty. Action in

Colombia focused on young people and children. All the children who attended child-care centres were given regular physical check-ups and the poorest families received food supplements. He recognized, however, that there was an unacceptably high percentage of undernourished children in his country.

9. In response to question 11, on the large squatter settlement located on the outskirts of Bogotá, he said that the problem was being addressed through direct action and low-interest credit schemes, run by the central and the municipal Government, with the participation of national institutes such as the Instituto de Crédito Territorial. The Institute provided direct long-term loans at concessional rates to purchase land for the construction of housing. Many private philanthropic institutions were also providing assistance. Fortunately, demographic changes and the fall in rural emigration had helped alleviate a situation that had been desperate in the 1960s and 1970s. Population growth in the cities was slowing, for two reasons: firstly, because the smaller residual rural population meant less pressure to leave for the cities; and, secondly, because population growth overall was itself slowing, having now fallen to an annual rate of under 2 per cent.

10. In response to question 12, on the National Rehabilitation Plan, he said that the Plan dealt fundamentally with areas that were suffering as a result of social upheavals. Consequently, the criterion for inclusion in the Plan was not a region's importance to national development, but the difficulties it had experienced in the wake of the violence of the previous 20 to 25 years.

11. Question 13 asked what was being done to curb movement to the cities by consistent implementation of agrarian reform. He said that efforts to improve agrarian legislation and the ownership and distribution of land were one of the authorities' ongoing concerns - not simply in order to check the rural exodus, but also in order to solve a human problem that was closely linked to the country's general well-being. In his view, agrarian reform should not be viewed simply, or even mainly, in terms of legislation intended to minimize the rural emigration problem. On the contrary, one effect of successful agrarian reform, wherever it was undertaken, was that the rural population consistently fell as modernization programmes in the agrarian sector were implemented. Consequently, he felt that the question of agrarian reform was not relevant to the concern raised in the question.

12. Turning to section IV on the right to health (article 12 of the Covenant), he said in reply to question 1 that the ratio of doctors to inhabitants was 10 doctors per 10,000 inhabitants. While conceding that that figure was low, he said that the main problem was that health services tended to be concentrated in the large cities, and that there was little incentive to achieve an even spread across the country. The authorities' main concern was thus not the relatively low number of doctors, but the poor distribution and organization of health services in remoter areas.

13. In response to question 2, on access by the economically underprivileged sectors to medicine, he said that an ambitious scheme had been introduced to bring medicine within the reach of those sectors by establishing pharmacies in remote areas which supplied some 45 basic drugs representing 90 per cent of the total range of drugs consumed. There were currently about 600 such pharmacies. The drugs were not provided free of charge, but were subsidized at a rate of 40 to 50 per cent.

14. In response to question 3, on the successes and hurdles met with regarding enjoyment of the right to health, he said that there had been an improvement in statistics on some diseases, and a fall in infant mortality and morbidity rates. Health services had been extended through decentralization of the health centres managed by the Ministry of Health, and there had been improvements in the training of health personnel over the years, especially with regard to the auxiliary and paramedical staff that were particularly needed on a day-to-day basis.

15. Turning to question 4, he said that the differences in the level of enjoyment of the right to health as between urban and rural areas were still considerable, but that the gap was narrowing, firstly because of the fall in the rural population, and secondly as a result of the establishment of primary health care centres throughout the country and of the extension of infrastructure and services to isolated rural areas. Nevertheless, it had to be acknowledged that rural inhabitants were still severely under-served. According to the most recent statistics, 20 per cent of the population, basically in rural areas, still had no regular access to medical care, while in some parts of the country the population's only recourse was to traditional remedies.

16. Question 5 asked what progress Colombia had made in eliminating the 10 health problems which, according to its 1986 report, were its main targets for eradication. He said that he was unable to list the 10 problems, but imagined that they concerned areas already discussed, such as the lack of doctors, the shortage of services and their poor distribution, and the fact that certain endemic tropical diseases had not yet been eradicated. Perhaps one of the problems referred to had been the lack of a proper vaccination programme for infants. He was able to report that Colombia was now in the forefront of Latin American countries in that regard, and that in the three years 1987-1989, with the aid of UNICEF, it had implemented programmes that had led to a dramatic increase in the number of children vaccinated.

17. With regard to medical assistance to low-income women (question 6), he said that, in addition to social security, there were private agencies known as "cajas de compensación familial" which administered the funds that enterprises were required by Colombian law to provide, to subsidize families of their employees. In addition to administering those funds, the agencies also provided other services, such as clinics and education, to improve the standard of living of the working class. Many, if not all, of those agencies had insurance schemes which provided services to their members, and to their families, including low-income women. Of course, those affiliated to such agencies were employed persons. It was not until two years previously that a scheme had been introduced whereby self-employed persons were permitted to pay monthly contributions to the Colombian Social Security Institute, thereby qualifying for benefits. With regard to prenatal care for pregnant women, the same applied. All working women had social security coverage. For the past two years, self-employed women had been able to make contributions to the Colombian Social Security Institute, so as to qualify for benefits.

18. Turning to question 7, on the reasons why the Basic Health for All Programme and other anti-poverty programmes had been so ineffective in dealing with widespread malnutrition, he said that the question seemed to him to be couched in terms that were too negative, and indeed unfairly so. While it was true that none of those programmes had been fully successful, it was

overstating the case to claim that they had been totally ineffective. Statistics showed that progress was being made in dealing with malnutrition, and that the Family Welfare Institute had been effective in providing services to the least privileged. While much remained to be done, the overall situation had improved considerably. Fail res could be attributed to the usual mistakes in management, to a lack of resources, and to the difficulty of changing ingrained social habits with regard to nutrition. Nevertheless, account should also be taken of the achievements of the programmes.

19. Question 8 asked what measures were being taken to deal with people already addicted to drugs. In Colombia, the nature of the problem differed from that in more developed countries. The phenomenon was relatively recent, dating back only five or eight years. Traditionally, the populations of the Andean countries had consumed only coca leaves, in order to neutralize the effects of living at high altitudes, and quell hunger. There had also been cultural, ritual and religious reasons for its consumption. Some marijuana had also been consumed, particularly along the Atlantic coast, where it was easy to grow. However, in recent years, the pattern of drug trafficking had changed. While traditionally Colombia had never been a producer of coca, a fact that still held true for climatic reasons, over the past 10 to 15 years it had become a processor and distributor of that raw material. That pattern had to some extent protected it from massive consumption. Nevertheless, because of the financial rewards, some regions had begun to grow coca which, because of its poor quality, was not exportable. The result had been the appearance of various products such as basuco, referred to in the question, an inexpensive mixture of cocaine and other highly toxic products which had resulted in a serious domestic consumption problem, especially among young people. The Government had responded to the threat with increased control and prevention measures, including drug abuse prevention campaigns and rehabilitation centres, which had been attempting to treat those most seriously addicted. Recent statistics suggested that some 100,000 persons were suffering from drug-related social and health problems. Although decriminalization had been considered, drug consumption currently remained a criminal offence. Furthermore, as was well-known, the authorities were waging an all-out war with a view to eliminating the drug trade at the three stages of cultivation, processing, and marketing and distribution. Specific measures to deal with basuco included prevention and publicity campaigns by the Ministry of Health, on television and in the press, aimed at alerting families and young people to the dangers of a drug far more toxic than cocaine.

20. With regard to question 9, concerning the measures taken to improve compliance with worker safety and hygiene regulations, he said that the Ministry of Health monitored implementation of those regulations, and that penalties were frequently imposed on persons infringing the rules. The Government was fully aware of the need for proper enforcement of the regulations, but the Ministry, despite its efforts, was unable to guarantee full compliance.

21. The issue of co-ordination raised in question 10 had both an international and a domestic dimension. He admitted that there had been a lack of co-ordination within the National Narcotics Council, but every effort was being made to centralize the administration of activities relating to the campaign against drug abuse.

22. On the question of access to medical help in emergency cases (question 11), he said that until recently a very restrictive attitude had prevailed in private hospitals with regard to the acceptance of emergency patients, the general rule being that only those who could pay were given treatment. That situation had led to widespread public concern and criticism by the media. However, a recent decree intended to strengthen the national health system made it obligatory for all health centres, both public and private, to accept emergency cases regardless of the patient's capacity to pay. Efforts were being made to subsidize the new scheme from the profits made by insurance companies. Since road accidents were a major source of emergency cases in hospitals, it was expected that motor insurance companies could provide a substantial source of funds.

23. In conclusion, he said that his delegation would welcome additional comments and questions, to which it would respond either during the session or subsequently in writing.

24. The CHAIRMAN thanked the representative of Colombia for his detailed replies to the questions on the list of issues and invited the Committee to put any oral questions.

25. Mr. DAO (International Labour Organisation) said that information on questions relevant to the concerns of ILO could be found in document E/1990/9.

26. With specific reference to maternity leave, he said that, while Colombia had ratified ILO Convention No. 3 concerning the Employment of Women before and after Childbirth, the leave referred to in paragraph 32 of document E/1986/4/Add.25 was 4 weeks less than the 12 weeks required.

27. Colombia had also ratified ILO Convention No. 13 concerning the Use of White Lead in Painting and Convention No. 136 concerning Protection against Hazards of Poisoning arising from Benzene, which stipulated a minimum working age of 18 years. There was no outstanding problem with regard to formal compliance with those Conventions, but the problem of child labour had evidently not been resolved, although the Government's efforts in that regard were duly noted in paragraph 49 of document E/1986/4/Add.25. The Organisation had specifically requested information about the labour inspection services in such priority areas as mining.

28. With regard to the list of issues prepared by the pre-sessional Working Group, he pointed out in connection with the issue of international co-operation raised in question I.2 that ILO was co-operating with Colombia on a number of projects.

29. Complaints had been submitted by two workers' associations in connection with the activities of guerrilla and terrorist groups, as referred to in question I.6, and the issue would remain on the agenda of the Organisation's Committee on Freedom of Association. That Committee had expressed dismay at the high number of trade union leaders in Colombia who had been murdered, noting that most had been the victims of paramilitary groups and hired assassins.

30. Concerning the indigenous population mentioned in question II.2, he informed the Committee that Colombia had ratified ILO Convention No. 107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries. However, it should be borne in mind that the Maternity Protection Convention would also apply to indigenous women workers should they be working in industrial or commercial undertakings. Government information supplied in connection with Convention No. 107 indicated that most members of indigenous populations worked their own land and therefore fell within the scope of article 19 of Convention No. 107, which provided for the progressive extension, where practicable, of existing social security schemes. The Colombian Government's report did not give any precise indication of the extent to which social security schemes had been extended to indigenous workers.

31. Mr. TEXIER said that the representative of Colombia had provided much useful additional information, but that more precise data were still needed. For example, it was not clear what proportion of the national budget was allocated to alleviating poverty, or the extent to which funds were made available to public, as distinct from private, hospitals.

32. He would welcome further information on the problem of street children, and asked whether they had been increasing in numbers in recent years.

33. In connection with question I.6, on the repercussions of the activities of guerrilla and terrorist groups, he pointed out that the campaign against drug trafficking had led to many deaths among law-enforcement personnel and that crop-substitution programmes were undermined by the low price of coffee on world markets. In general, the solution was to be found in agrarian reform, which would do much to mitigate the effects of extreme poverty. At the same time, the problem must be tackled in the countries of consumption, and in particular in the United States and Western Europe.

34. Mr. MUTERAHEJURU said that it was clear from the report of Colombia that the major problem to be resolved was that of poverty, and that the Government was making strenuous efforts to overcome it.

35. He would be grateful for further information on the specific issue of communal ownership and on the way in which it was to be differentiated from private ownership, and on any environmental protection measures which the Government might be taking to cope with changing climatic conditions.

36. Mrs. JIMENEZ BUTRAGUEÑO thanked the representative of Colombia for his statement, which had been more informative than the report itself. In fact, it would be useful for the Committee to have the statement in written form.

37. She shared Mr. Texier's concern regarding poverty among the underprivileged groups. One way of dealing with the problem might be to mobilize resources from the wealthy groups through tax measures; she wondered whether the Government had given thought to that possibility. Concerning abandoned children, she would like more information on the reasons why mothers deserted their children. It was difficult to understand how that situation could come to pass in a Latin country, where the family traditionally was extremely important.

38. In her understanding, there were two types of social security in Colombia, a general system and a social security fund which was a poor cousin of the first. She would like to know the difference between the two. Given that 30-40 per cent of workers participated in the informal economy, what protection was provided to them in case of accident? Regarding protection of mothers, she wondered whether the wives of working men had the same right to pre-natal and natal care as working women. Finally, she would like to know whether workers covered by either of the two systems had access to free emergency medical assistance.

39. Concerning divorce law, she asked whether couples married in church could obtain a civil divorce and remarry under civil law.

40. Mr. FOFANA requested more information on efforts to combat tropical diseases such as malaria and dengue, in particular the results of the research on a malaria vaccine mentioned in the report. He would also like further statistical information on the marriage and divorce rate and on current fertility and mortality rates, including the incidence of voluntary and involuntary homicide as a cause of death.

41. The previous report and the representative's oral statement had both mentioned the fact that health workers were concentrated in the three major cities, which raised an as yet unsolved problem of rotation. He would like to know what was being done to remedy the situation. Finally, the report mentioned that the Government and the Catholic Church were united in their opposition to abortions. He wondered whether there were any exceptions to that rule.

42. Mr. KOUZNETSOV, noting the reference to private justice in paragraph 3 of the report, asked what form private justice took and how the Government had reacted to it.

43. Mr. Alvarez Vita took the Chair.

44. Mr. RATTRAY said that, although the report was interesting and illuminating, it lacked statistical data to show how far efforts in certain fields had borne fruit. He would like additional information on a number of points. Firstly, noting that the report referred to the concept of "absolute poverty", he asked what statistics were used by the Government in determining who was in that category. Secondly, he would like to know whether any new initiatives had been taken to deal with illegal employment of minors, and in particular requested statistical data concerning the number of prosecutions instituted in recent years and the penalties imposed. Thirdly, with regard to indigenous populations, further information would be appreciated on the budgetary resources allocated to the indigenous communities in such sectors as health care. Fourthly, it had been said that the rights provided by the Covenant were incorporated into domestic legislation through the fact of ratification, yet it remained unclear whether those rights were justiciable. He would like information on cases in which those rights had been upheld by the judicial institutions of Colombia.

45. Finally, he endorsed Mr. Texier's remarks concerning the drug problem. The rights contained in the Covenant were an international responsibility; their violation, even outside national territory, undermined a country's social and economic fabric.

46. Mr. KONATE expressed concern at the negative approach in the Colombian representative's oral presentation to the problem of the indigenous peoples. The underlying argument appeared to be that all factors blocking progress in that area derived from indigenous traditions themselves. However, access to the rights contained in the Covenant must be provided to all population groups without exception. He would like to know what measures had been taken to interest the indigenous peoples in modern life and help them to enjoy those rights.

47. Mr. SIMMA congratulated the representative of Colombia on his oral presentation of a report whose weaknesses had led the pre-sessional Working Group to formulate a large number of questions. He associated himself with Mr. Texier's remarks on the need to address the underlying causes of the difficulties faced by Colombia in implementing the Covenant, in particular the lack of equality in the country and the apparent lack of concern of the upper classes for the problems of the most vulnerable groups.

48. He would like to know whether there was any incidence of AIDS or the HIV virus in Colombia. If so, had there been instances of discrimination against the victims, and did the Government consider that existing legislation provided them with sufficient protection?

49. Finally, a number of observations and questions had been formulated by a Colombian non-governmental organization and brought to his attention by the organization Habitat International Coalition. He would be submitting those points in writing to the representative of Colombia and would appreciate their being covered by his replies.

50. Mr. MARCHAN ROMERO said that the discussion had given the somewhat distorted impression that all problems in Colombia were linked to the drug traffic. He would like information on other problems not mentioned in the report, such as the incidence of kidnappings and prostitution in Colombia.

51. Mr. ALVAREZ VITA, speaking as a member of the Committee, referred to the representative's characterization of the legal structure of Colombia as that of a pyramid with the international treaties at the top. He wondered whether that meant they were above the Constitution itself, and whether any case law existed defining priority among the international agreements. That was particularly important with respect to the Concordat and family law.

52. He would like more explicit information on the impact of the external debt on Colombia. If the country was paying some 40 per cent of its export earnings to service the debt, that must have far-reaching consequences on the enjoyment of economic, social and cultural rights. In that context, further information would also be appreciated on section I (3) of the list of issues, concerning the contribution of international assistance to Colombia's development.

53. Regarding the impact of terrorist acts on the enjoyment of human rights, he would like to know whether Colombia had denounced the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Suppression and Punishment of the Crime of Apartheid, both of which recognized the responsibility of the individual, as opposed to Governments, in human rights violations. That was important in order to pinpoint the situation with regard to violence in Colombia.

54. Finally, he endorsed Mrs. Jimenez Butragueño's suggestion that the Colombian representative's oral presentation should be made available to the Committee in document form.

The meeting rose at 6 p.m.

UNITED
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Economic and Social
Council

Distr.
GENERAL

E/C.12/1990/SR.14
14 March 1990

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 January 1990, at 10 a.m.

Chairman: MR. BADAWI EL SHEIKH

later: Mr. ALVAREZ VITA

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GE.90-15281/1647B

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic reports concerning articles 10 to 12 (continued)

Colombia (E/1986/4/Add.25) (continued)

1. At the invitation of the Chairman, Mr. Rivas Posada (Colombia) took a place at the Committee table.

2. Mr. RIVAS POSADA (Colombia) said that, due to lack of time, he had been unable to obtain all the figures requested, but that he would communicate them to the Committee in due course.

3. Replying to questions raised by the representative of ILO, he said that, in ratifying ILO Conventions, his country had undertaken to bring its domestic legislation into line with those instruments, but that time and effort were required to amend the law because of the political and economic implications of provisions relating to labour. The Committee should not overlook the economic cost of social measures in a country such as Colombia. Appreciable progress had none the less been made, despite certain gaps, for example in respect of maternity leave. In that connection, however, the Government had now entered into negotiations with the trade unions, and an agreement seemed to be in prospect.

4. Under the ILO Convention, the minimum working age was 18 years, except in certain specific instances in which work could be authorized from the age of 14. However, there seemed to be a trend towards stricter application of the law.

5. Referring to the indigenous peoples, he said that Colombia had made great efforts to enhance their protection at both the national and international levels, and at the most recent International Labour Conference, it had upheld positions taken during the deliberations on the amendment of Convention No. 107. Some of its concerns had finally been acknowledged, but not all. The establishment of territories reserved for the indigenous population represented a major step forward, even if there were shortcomings in surveillance.

6. Replying to the final question raised by Mr. Dao, who had expressed concern over infringements of trade union freedoms, particularly in the banana industry, he said that recent events had undoubtedly given international public opinion a better understanding of the causes of the problem. The purchase of banana plantations by drug traffickers had led to conflicts with the workers, and private armies had been formed, a dangerous phenomenon. The Government had, however, taken administrative and military measures to remedy that state of affairs, and it could be said that, while peace had not been completely restored, the labour climate had improved, and would continue to improve.

7. Replying to Mr. Texier, who had referred to the international community's concern at the situation prevailing in Colombia, and particularly the poverty of certain strata of the population, he said that, while it was true that poverty was an obstacle to democracy, the traffic in drugs was a still more serious threat. Colombia was a third-world country, and like all third-world countries it faced problems - such as employment, housing, nutrition, and health - which were by no means of recent origin. The task of the international community was essentially to endeavour, with the country itself, to find ways of remedying that situation.

8. In response to Mr. Texier's observation that the difficulties facing Colombian society were largely due to social imbalances, he said that there, too, generalizations should be avoided: social imbalances were not the only cause of violence and poverty in the country. There were other explanations, such as the lack of national homogeneity, the historical heritage and the after-effects of colonialism.

9. The number of street children varied according to the policy of the authorities and the general economic situation. As a result of the measures taken by the current Government and by UNICEF, the phenomenon was declining in Bogotá, but time and resources would be needed to eradicate it completely. There was no doubt that one of its principal causes was the weakening of the family structure (in particular the lack of a father in many families) among the most disadvantaged strata of the population.

10. In addition to the guerrilla groups and the private armies of the drug traffickers mentioned by Mr. Texier, reference should also be made to certain vigilante groups which had recently come into being. The Government, which was very concerned by the increase in armed violence, was endeavouring to disband those various groups. It had never denied that members of the police force had belonged to them, and a number of policemen had been brought before the courts. Doubtless the authorities had not acted sufficiently promptly, but the Colombian Government was no different in that respect from other Governments, which generally reacted only when problems had reached alarming proportions. It should also be pointed out that the drug traffic was less than 20 years old, and that the traffickers had been making money for only 15 years or so. The phenomenon was one which at the outset had been latent, but which had gradually developed.

11. In order to combat the traffic in drugs, other crops must obviously be substituted for coca, and the National Federation of Coffee Growers and the authorities had made substantial investments with that aim in view. However, the task, already costly, was rendered more difficult in that the peasants had to be persuaded to act against their immediate interests. There were other problems, too, such as the lack of a road infrastructure, which prevented easy access to remote coca-growing areas. The Colombian Government regarded the campaign against drug trafficking as a matter of priority and, encouraged by public opinion, it was sparing no effort in that regard.

12. In reply to Mr. Muterahejuru, he pointed out first of all that the term "absolute poverty" was rather ill-defined. It might be regarded as designating the situation of those at the bottom of the social ladder, whose income was below the minimum wage. At the same time, absolute poverty could

also be measured in terms of difficulty of access to basic services, particularly in marginalized urban areas. Those were the criteria used by the Colombian Government in its efforts to combat poverty.

13. Concerning the proposed constitutional reform, he said that the idea of "communal ownership" lay between public ownership, which meant ownership by the nation, and private ownership, which was a feature of the civil law derived from the French Revolution. It was that collective type of ownership which it was proposed to introduce into the Colombian Constitution.

14. On the question of the status of human rights in the event that the constitutional reform was not approved, he said that the social guarantees of human rights were already embodied in chapter 3 of the current Constitution, which set forth in general terms the safeguards for individuals and groups in respect of fundamental rights. The proposed reform was thus aimed solely at giving more explicit and detailed expression to the human rights enshrined in the international instruments to which Colombia was a party.

15. He acknowledged the existence of malnutrition in Colombia, despite the scale of the programmes introduced and the resources mobilized to combat that scourge, particularly as a result of international assistance. That situation, which was typical of developing countries, was exacerbated by Colombia's geography and its specific climate.

16. Regarding environmental protection, Colombia had promulgated in 1970, even before the Stockholm Conference, a special organic law setting forth the obligations of the State and individuals in that field. That concern for the environment was also reflected in information campaigns and instructional programmes, and by the creation of nature reserves and parks protected by the State. The National Institute for Natural Resources (INDERENA) was engaged, in particular, in preventing deforestation in the tropical forests, a phenomenon which gave rise to serious erosion problems.

17. As to whether the problems associated with severe poverty could not be partly solved by drawing on the resources of the privileged social strata, he said that in Colombia, as in many countries, there was a tax system aimed at introducing greater social justice by imposing proportional and graduated taxes on the highest incomes. In addition, the State intervened directly on behalf of the economically underprivileged groups. At the same time, while it was true that Colombia suffered from social imbalances, it could not properly be said to be a country in which enormous fortunes existed side by side with abject poverty. Since the colonial era, it had never been a particularly wealthy territory, even if it had always been self-sufficient. The accumulation of capital was much more pronounced in the other countries of Latin America. However, the Colombian Government, which had emerged from a party which was traditionally the standard-bearer for the underprivileged classes, had committed itself to combating flagrant social inequalities.

18. The problem of abandoned children, which was particularly acute in the cities, was a constant concern of the Colombian Government. The Colombian Family Welfare Institute, for example, was trying to combat family instability and to provide heads of family with the means to meet the needs of their

children. Similarly, current legislation, which safeguarded the rights of the child, was intended to counteract that phenomenon. However, it was certain that children would continue to be abandoned until the rural exodus was brought under control and the problem of unemployment in the major cities resolved.

19. With regard to women's rights to social security, he recalled that in Colombia there were two social security systems: the public system, whose services were the responsibility of the National Social Welfare Fund, and a private system, represented by the Social Security Institute, to which workers and employers contributed. Women who were enrolled in either of the schemes received benefits on an equal basis.

20. Free emergency medical services were primarily provided by public hospitals, and health care dispensed by private clinics generally had to be paid for.

21. In addition, the health services, which had previously been concentrated in the large cities, were currently undergoing decentralization, particularly since 1985, the date of the most recent reform of the national public health system, which was noteworthy for a concern to bring medical services to the consumer. There was still much to be done, however, to ensure that those services reached the rural population in remote regions.

22. On the subject of divorce, he recalled that, under the law adopted in 1975 pursuant to the amendment of the 1974 Concordat, civil marriage, which could be dissolved by divorce, was recognized by law, whereas the law had previously recognized only religious marriages. Marriages contracted according to Catholic rites could not be dissolved by the State because of the obligations entered into under the Corcordat. The reform currently proposed by the Government would amend the existing régime by repealing the chapter relating to marriage, thus giving Parliament all the necessary scope to legislate on divorce.

23. In connection with a synthetic vaccine against malaria, he drew attention to the progress made by Colombian scientists and researchers, with State support, and welcomed the international recognition accorded to their achievements. That vaccine, which was still at the experimental stage, gave grounds for hope in the campaign against one of the most devastating epidemics affecting tropical countries.

24. On the question of demographic statistics, he said that he was not in a position to give precise figures on the number of divorces or on fertility and mortality rates. However, fertility and mortality had declined and the rate of population growth had fallen due to family planning campaigns in the country. The slowing down in demographic growth, which had dropped from 3.4 per cent to 1.9 per cent in 25 years, had had a salutary impact on the rural exodus. With regard to the attitude of the Church to family planning in such a traditionally Catholic country as Colombia, he said that the Catholic Church, although strongly opposed to all artificial means of birth control, had never openly opposed the campaigns aimed at making information and assistance on birth control and fertility available to couples.

25. Abortion was prohibited by the legislation in force, but in practice, efforts were made to permit it for therapeutic purposes in order to avoid clandestine abortions of which there were a great many.

26. On the issue of "private justice", he said that it was practised by groups which in recent years had exacerbated the law and order situation in the country. Such private armies, which had their origin in subversive groups of drug traffickers, had benefited from the complicity of certain official circles. There had been some 100 such groups in the country, but the Government had succeeded, through effective police action, in breaking up more than 20 of them.

27. In reply to a member of the Committee who had asked for more precise statistics, he said that, since the Committee had been set up relatively recently, and since the scope of its activities - monitoring respect for economic, social and cultural rights - was also fairly new, it was difficult for the time being to arrive at an accurate determination of the data which should be given in reports. With the aid of experience, the Colombian Government would submit more detailed reports which were better attuned to the concerns of the members of the Committee.

28. Concerning work by minors, he said that the Ministry of Labour carried out inspections in order to ensure respect for the laws in force and to prevent abuses. He was not, however, in a position to inform the Committee of the number of complaints which had been lodged concerning violations of the rights of minors in that regard. Further information would be submitted in due course.

29. The proportion of public expenditure devoted to the health sector represented between 15 and 20 per cent of the State budget. To that should be added the credits allocated to the health services by the various administrative units in the country, such as departments and communes.

30. Replying to a question on the domestic legal basis for economic, social and cultural rights, he said that such rights did have a legal, and indeed a constitutional, foundation in that they were embodied in general terms in the Constitution. In that connection, he recalled that international conventions - such as the International Covenants on Human Rights - were ratified by means of a law which reproduced their provisions, and that the rights affirmed in the Covenants were thus automatically incorporated in domestic legislation.

31. The question whether a remedy was provided in the case of the infringement of a particular economic, social or cultural right was another matter entirely. Most of those rights were too vague for their infringement to give rise to legal action. Moreover, as things stood, it was difficult to imagine individuals initiating proceedings against the State on the grounds that it had not enabled them, for example, to exercise their right to a happy family life, or their right to housing, and it was hard to see how States, particularly those with scant resources, could acknowledge liability arising from such grounds.

32. Referring to the ill effects of drug trafficking, he said that, as had been noted for the past several years in a number of countries, drug trafficking seriously exacerbated corruption and destabilized society profoundly. The resolute action undertaken by Colombia to overcome that scourge had already yielded positive results, but the price that had to be paid was very high. The battle in which his country was engaged was the concern of mankind as a whole. Unfortunately, so far the international community had not perhaps given it all the support that it needed.

33. It would also be totally unfair to claim that, by taking on the drug traffickers, the Colombian Government was trying to obscure the fact that there were other breeding grounds for subversion and other causes of social ills, or even to deny their existence. The Colombian authorities were fully prepared to admit that the traffic in drugs did not explain everything. At the same time, it was true to say that the worsening social situation - with the increasing numbers of outrages, assassinations, etc. - was primarily attributable to the activities of the drug traffickers.

34. The consequences of terrorism and acts of violence on the exercise of human rights were undeniable. When a State which was already facing serious problems of economic and social development with shaky institutions and limited resources also had armed groups rising against it, deliberately seeking to undermine its institutions and impede its action by all means possible (extortion, attacks, kidnapping of judges, journalists, political leaders, etc.), it was at times very difficult for it to guarantee the strict respect of all economic, social and cultural rights and to fulfil all its commitments in that area promptly and without exception. That element absolutely had to be borne in mind when the human rights situation in such a country was considered.

35. The course of action to take towards the indigenous populations was the subject of an on-going discussion among philosophers, sociologists, anthropologists and political leaders, who were faced with a real dilemma: how both to guarantee respect for the cultural identity of those populations and to improve their living conditions by ensuring them the enjoyment of the rights set forth in the Covenant, especially the right to health, the right to housing and the right to education. What was needed was to reject extreme solutions, i.e. forced assimilation or its opposite, total passivity, and to seek, as the Colombian Government had done, a half-way house, a compromise formula that would make it possible to respect the beliefs of those populations, preserve their language, and internal organization - in short, all the elements of their culture upon which their survival depended - and at the same time gradually to persuade them to accept a number of measures designed to make them somewhat more comfortable in areas such as health, housing and education.

36. Turning to the problem of AIDS, he said that Colombia was not among the most seriously affected countries: approximately 1,000 cases had been reported. But, beyond the absolute figures, what worried the authorities was the trend they represented, which showed that the disease was spreading very rapidly. Efforts were therefore being made to make testing more widespread, but without making it compulsory. For that reason, instead of forcing certain categories of the population to undergo HIV-testing before enrolling in an educational establishment or starting a job, the authorities chose to organize

information campaigns to alert public opinion and above all to encourage the use of contraceptives. In that connection, he explained that, contrary to what might be feared in a country with a Catholic majority, the Church's well-known position on contraception had not really impeded the implementation of those programmes as yet. He added that there were no confinement centres in Colombia for persons with AIDS and that none were being planned. However, depending on how the situation developed, it might in future be necessary to take more drastic measures and to conduct closer supervision to check the spread of the disease as much as possible.

37. Concerning the right to housing, his delegation had received a list of questions from non-governmental organizations: those questions would be transmitted to the competent Colombian authorities for replies.

38. Returning to his earlier remarks on the primacy of international treaties over domestic legislation, he explained that, just as treaties were automatically incorporated into domestic legislation through ratification, so the Concordat, concluded between two international public law entities, namely the Colombian State and the Holy See, was considered by both case law and legal theory to be an international treaty and that, through its ratification by Parliament, its provisions were an integral part of Colombian law.

39. The debt burden was one of the factors explaining the difficulties encountered by various countries in guaranteeing the full exercise of economic, social and cultural rights as they had pledged to do. Colombia was the only country in Latin America that had not asked for a rescheduling of its debt, and over the years, the amount of money it had to pay out in interest and capital redemption had constantly been increasing to the point of jeopardizing the balance of its public finances. That figure currently represented almost 40 per cent of the national income.

40. Regarding social assistance, he acknowledged that it was not appropriate for action on behalf of disadvantaged groups to be conducted exclusively by the State; on the contrary, it was in the State's interest to encourage private initiatives and to foster solidarity. In fact there were a series of volunteer organizations in Colombia which actively helped to provide basic social services for the neediest. But in a country with limited resources where insecurity and poverty raised enormous problems, State intervention was indispensable, and the private sector could play only a secondary role.

41. In conclusion, he said that the Committee would receive additional information on certain points, in particular in the form of statistics, at a later date.

42. The CHAIRMAN thanked the representative of Colombia and invited the members of the Committee to make concluding observations.

43. Mr. ALSTON drew the attention of representatives of States parties to the fact that the members of the Committtee were independent experts. It would therefore be preferable not to mention their country of origin in the discussions.

44. Concerning the questions on the right to housing that had been raised by the non-governmental organizations and would be transmitted to the competent authorities, he asked whether the Committee could expect to receive written replies to those questions before its following session.

45. Mr. WIMER ZAMBRANO said that the representative of Colombia had made an extremely interesting statement. Instead of simply providing neutral replies, he had painted a clear and vivid picture of the human rights situation in his country and had thus met the Committee's expectations. It was not the Committee's mandate to assess the degree of development reached by States parties, and more than statistics, which it could easily obtain from other sources, it needed explanations to help it see exactly what the Government had already done or was planning to do to ensure the implementation of economic, social and cultural rights.

46. He would like to know how the representative of Colombia felt that relations between the Holy See and the Colombian Government would develop. It was his understanding that the Secretariat of State of the Vatican, for its part, would be prepared to replace the old Concordat by a modus vivendi better adapted to the current situation.

47. Mr. TEXIER said he would like to know whether the Colombian Government might not be planning to eliminate the Concordat. In most countries separation of Church and State had become the rule, and Colombia was one of the few countries in the world, if not the only one, where the Catholic religion was still the State religion. The situation had evolved somewhat, but recognition of civil marriage, for example, was still relatively rare, and the most generally recognized form of marriage remained marriage in church.

48. Turning to the question of violence, he said that the causes of violence in Colombia were very complex. Violence had not come into being with the drug traffic, and it took many different forms. It was true that for the previous 15 years or so there had been a type of violence which was directly linked to the drug traffic, and the Government of Colombia was apparently beginning to deal with it. However, the violence also had other causes, such as the different guerrilla movements. It was also linked to crime, and to the action of the paramilitary groups, and even of certain members of the military. Another form of violence that was just as disturbing from the economic and social point of view, although difficult to define, was violence against marginal groups of the population. There had been incidents, in particular at Cali, where groups had attacked homosexuals and prostitutes. That violence was endemic and had serious consequences. However, it should be formally acknowledged that the Colombian Government seemed to have made some headway in the fight against violence.

49. Initially, Colombian society as a whole had had a fairly tolerant attitude towards the drug traffic. Everything had begun in the early 1970s, near Medellín, where a certain class of society had started to become interested in the drug traffic. Unfortunately, at that time Colombian public opinion had not been particularly concerned about the traffic, which everyone knew could bring a considerable amount of foreign currency into the country. Thanks to that tolerance by Colombian society, certain of the individuals who now had a price on their heads, members of the Medellín cartel, had even reached Parliament: Pablo Escoade, for example, had until 1986 been the

alternate of a deputy who still appeared to be sitting in Parliament. The Government could therefore not say that the drug problem did not concern it, for that problem affected all strata of society, the State, the army and the opposition, including the guerrilla movements, some of which, as everyone knew, had concluded agreements with the traffickers.

50. The problem had reached such proportions that it might almost be considered to be a problem of national sovereignty in that it had raised the question of extradition agreements. In that connection, he recalled that in 1979 the United States and Colombia had concluded an initial agreement making it possible for Colombian nationals to be extradited; that agreement had applied not only to the drug traffic, but to all sorts of offences. The agreement had been declared unconstitutional by the Supreme Court, and it was only recently, after the assassination of Mr. Galán by the Mafia, that the President of the Republic, after convening the Anti-Drug Council, had issued a decree permitting the extradition of nationals that was not monitored either by the Council of State or by the Supreme Court. While he did not wish to make any value judgement, it was obvious that a State which extradited its own nationals was in some way acknowledging the fact that it was not in a position to try them itself or to keep them in prison, since it was leaving it to another State to do so. That was a very delicate problem from the standpoint of international law.

51. It was important to encourage the Colombian Government to continue its struggle against the drug traffickers, while asking it to remain vigilant on the question of human rights violations and on the means used to punish abuses. For the Government to try to resolve the drug problem solely by resorting to repressive measures, would be to ignore other very serious problems, such as extreme poverty or inequalities.

52. As a human rights activist and a judge who was very concerned with the question of the drug traffic, he was disturbed about what would happen after the presidential elections. It was clear from the newspapers, for example, that the Colombian population felt that there had been enough deaths and the rumours of negotiations with the drug cartels were upsetting it deeply. The current Government had adopted a very firm position in that connection by stating that there would be no negotiations. But what would happen in a few months' time, when the President of the Republic had changed? He added that he was especially concerned with the situation in Colombia because he had known that country for many years and had many ties there.

53. Mrs. JIMENEZ BUTRAGUEÑO, referring to the problem of abandoned children - who, in her opinion, were most often unwanted or unloved children - and to the obstacles which the Catholic religion sometimes set in the way of the evolution of mores, said that it might be advisable for the Progressive Party to emphasize the possibility of replacing the Concordat with a sort of modus vivendi. It might also be asked whether the family planning system in Colombia functioned properly, and whether the Government should not campaign more actively in that area. She would also like to know to what extent the law authorized abortions for therapeutic reasons or in cases of malformation of the foetus. Similarly, in cases of rape, it might be more humane not to allow an unwanted child to come into the world and to authorize the mother to take that decision herself, which did not currently appear to be the case in Colombia.

54. She would also like to know whether the wives of self-employed workers were entitled to maternity benefits.

55. Furthermore, she would like to know how many cases of AIDS had been recorded in Colombia, to what groups the victims belonged, and whether the Government, despite the influence of the Catholic Church, was conducting an information campaign in that area and recommending methods of protection, especially the use of contraceptives.

56. Finally, given the current interest in traditional medicine and its low cost, it would be interesting to know whether traditional medicine was used in Colombia and whether the indigenous populations' experience in that area was taken into account.

57. Mr. NENEMAN said that he would like to see the problems referred to by Mr. Texier dealt with in a future report by the Government of Colombia.

58. He noted that, according to the different documents that had come to the Committee's attention, 3 per cent of landowners controlled 60 per cent of the land in the country, whereas 56 per cent of farmers worked only 2.8 per cent of the land. Those figures were especially significant because everyone knew that certain people resorted to terror, torture and threats to maintain the situation. For the year 1988 alone, 18,124 cases of death by violence had been reported. The representative of Colombia had attempted to explain that situation by referring, on the one hand, to the colonial heritage, and on the other, to the particularly wretched living conditions existing in the country. However, the violence was not a natural disaster, but a man-made disaster. The representative of Colombia had also indicated that the Government was attempting to redistribute wealth through the tax system. Nevertheless, 57 per cent of the inhabitants of the rural regions were living in a state of extreme poverty, 72 per cent of them did not have drinking water, and 59 per cent lacked electricity.

59. The situation was also very complex in the social sphere: divorce did not exist, and abortions were punished by law. In that context, and knowing that the Catholic Church was fundamentally opposed to the use of contraceptives, he wondered whether their use was authorized nevertheless.

60. In conclusion, he thanked the representative of Colombia for having agreed to hold a dialogue with the Committee and expressed the hope that the situation with regard to the implementation in Colombia of the rights set forth in the Covenant would gradually improve.

61. Mr. MARCHAN ROMERO expressed satisfaction with the replies that the representative of Colombia had given to the Committee, especially as some of the questions raised had been particularly incisive. The representative of Colombia had understood that the Committee was seeking a frank and open dialogue, and he had therefore presented the situation in his country straightforwardly, referring not only to specific achievements, but also to the difficulties faced by his Government in ensuring respect for economic, social and cultural rights and in its struggle against the drug traffickers.

62. The external debt, which the representative of Colombia had also discussed, was a serious problem which severely handicapped most of the countries of Latin America, and the Committee should take that into account. However, in no case could it justify failure to respect the obligations contracted by the States that had signed the International Covenant on Economic, Social and Cultural Rights.

63. He believed that the incorporation in the Colombian Constitution of the economic, social and cultural rights set forth in the Covenant represented significant progress, on which the Colombian Government was to be congratulated. In his view, however, the problems were of a practical rather than a legal nature.

64. Mr. ALVAREZ VITA said that he had asked questions about the guerrilla movements because he believed that there was not only a link between those movements and the drug traffic, but also a common denominator between those two scourges. Some believed that the drug problem affected only the drug-producing countries. In actual fact the situation was much more complex, and it was not sufficient to think about what went on in the drug-producing countries: attention must also be given to the consequences of that traffic abroad. In his view the power of drugs to corrupt at the national and international levels should not be underestimated. Nevertheless, the efforts of the representative of Colombia to reply to his questions were appreciated, even if those replies were not as complete as he would have wished.

65. The CHAIRMAN, speaking as a member of the Committee, thanked the Colombian Government for its report and the representative of Colombia for his explanations. The aim of considering the report - to establish a dialogue between the Colombian Government and the members of the Committee - had been achieved. He was aware of the difficulties that implementing the provisions of the Covenant might raise, especially in a developing country, and congratulated the Colombian Government on its efforts in that area. However, he noted that the provisions of the Covenant explicitly stipulated that States parties were bound to implement the rights set forth in it, among which were the right to free education for all, and that States parties were also bound to inform the Committee of the measures they had taken to that end.

66. Mr. RIVAS POSADA (Colombia) thanked the members of the Committee for the interest they had shown in his country's report.

67. In reply to Mr. Alston's remark concerning the mention of the country he represented, he explained that, since he was himself a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, he was fully aware of the fact that experts served in an independent capacity, and he had at no time considered the members of the Committee as representatives of their country: he had merely mentioned the nationality as it appeared on the official list of participants prepared by the Secretariat.

68. On the question of whether and when an additional report would be prepared, he said that it had been his understanding that the Committee wished to have clarifications on certain points as soon as possible and that he would so inform his Government.

69. Concerning the evolution of relations between the Vatican and the Colombian Government, a question raised by Mr. Wimer Zambrano, he noted that the Concordat régime in Colombia was a tradition that dated back to the last century.

70. In reply to Mr. Texier's question whether Colombia intended to put an end to the Concordat, he said that the question of relations between the Church and the Colombian State had always given rise to discussions that divided the political community. The 1974 reform, for example, had been approved by Congress by a majority of only one vote, and the conservative party, which was nevertheless the political party most attached to maintaining relations with the Church, was itself divided. In his view, Colombia might move towards a modus vivendi, but that had not yet come about, and for the time being it was only a question of proposing reforms.

71. Contrary to what Mr. Texier had said, the Catholic religion was not a State religion in Colombia. The preamble to the Constitution simply stated that the Catholic religion was the religion of the majority of Colombians, which was not the same thing. It was true that, to the extent that there was a Concordat, the Church had the right to some protection from the State, but freedom of worship was respected in Colombia.

72. Mr. Texier's remarks on the drug problem and the Government's action in that area were not without relevance. However, it was too easy to state with hindsight that a State or person had not reacted quickly enough in the face of danger. The drug problem was so different from the other problems that it had been difficult to realize the national and international dimension it was going to assume and the danger it was going to represent for Colombian institutions and the very lives of judges and politicians.

73. Extradition, which Mr. Texier had also mentioned, was a delicate question that had seriously divided public opinion in Colombia. However, he acknowledged that, if a State agreed to extradite its nationals, that was an admission of inability to try them itself.

74. Replying to Mrs. Jiménez Butragueño's remarks on divorce, abortion, maternity benefits and traditional medicine, he explained first of all that the problem of abandoned children was not due to the fact that Colombians could not divorce, but to the fact that they did not marry. Enacting a law authorizing divorce would therefore not solve the problem.

75. With regard to abortion, he explained that Colombian legislation did not authorize abortion in cases of rape or of malformation of the foetus, but that in certain desperate cases, for medical reasons, abortion could be practised without leading to legal proceedings.

76. The wives of self-employed workers had recently become entitled to maternity benefits, on condition that their husband contributed to the social security scheme.

77. Regarding traditional medicine, he believed that it was too limited in scope and too looked down upon by science and medicine to be able to develop. It was true that certain groups of society trusted it, but its proper place was in the realm of folklore, and its social role was limited.

78. In reply to Mr. Neneman's remarks on land distribution, he expressed doubts concerning the figures cited and their significance. It was very difficult to draw up objective statistics on land distribution in a country such as Colombia, for the quality of the land differed from one region to another. When it was said, for example, that only 3 per cent of the population owned 56 per cent of the land, that might be the least productive land: since two thirds of the country's land was fairly unproductive, having a lot of land did not necessarily mean having a high income. Similarly, although a large number of farmers had small plots, that might be in very wealthy regions, such as the coffee-growing region where two or three hectares produced more than did 1,000 hectares in the eastern cordillera. In fact those figures did not mean much, and they might even be misleading if it were not stated precisely which land was meant.

79. Finally, he regretted that Mr. Alvarez Vita had not received all the replies he had been expecting on the drug problem but wished to say that he shared Mr. Alvarez Vita's deep concern, and that if he had not devoted more time to that question, that was because he had not wished to limit the dialogue to a single subject. He believed that the drug problem should give rise to a series of discussions and exchanges of views, and that all the United Nations committees should look into the question.

80. The CHAIRMAN thanked the representative and Government of Colombia for their co-operation.

The meeting rose at 1.05 p.m.